

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASON SWEITZER, et al.,	:	CIVIL ACTION
Plaintiffs,	:	
	:	
v.	:	
	:	
OXMASTER, INC., et al.,	:	NO. 09-5606
Defendants.	:	

ORDER

AND NOW, this 1st day of March 2011, upon consideration of the motions *in limine* filed by Defendants Oxmaster Inc. and Wirtz Manufacturing Company, Inc. and the parties' responses and supplemental filings thereto, it is hereby ORDERED as follows:

1. Defendants' Motion in Limine to Preclude Evidence Regarding Alleged Defects in Paste Mixing System Components Based on Other Alleged Similar Incidents (Docket No. 13) is GRANTED. To the extent the Sweitzers seek to introduce evidence of the 1998 and 2008 accidents at trial, they must request a pre-trial hearing, present appropriate offers of proof, and receive a ruling on the admissibility of such evidence.
2. Defendants' Motion in Limine to Preclude Plaintiff From Presenting a Claim for Future Lost Earnings (Docket No. 14) is DENIED without prejudice. To the extent that Defendants seek to object to the admissibility of any evidence offered for the purpose of loss of future earnings capacity, Oxmaster and Wirtz may make the appropriate objection at trial. To the extent that Oxmaster and Wirtz seek to bar the Sweitzers from submitting the loss of earning capacity claim to the jury, they may move to do so at the appropriate time.

3. Defendants' Motion in Limine to Preclude Evidence Regarding Oxmaster, Inc.'s Design of a Mechanical Scraper (Docket No. 15) is DENIED without prejudice. To the extent the parties anticipate that mechanical scraper evidence will be presented to show Defendants allegedly recognized a danger of the product's design, the parties may present their positions and supporting authority in a renewed motion in advance of trial or raise the appropriate objection at trial. To the extent that Defendants seek to object to Plaintiffs presenting mechanical scraper evidence to show design feasibility, they may do so at trial.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge